

MAIL TO:

STATE OF UTAH
 DIVISION OF PURCHASING
 3150 STATE OFFICE BUILDING, STATE CAPITOL
 P.O. BOX 141061
 SALT LAKE CITY, UTAH 84114-1061
 TELEPHONE (801) 538-3026
<http://www.purchasing.state.ut.us>

Request for ProposalSolicitation Number: **NO3015**Due Date: **09/17/02 at 3:00 P.M.**

Date Sent: August 20, 2002

Agency Contract

Goods and services to be
 purchased:

AGENCY CONTRACT FOR EMPLOYEE ASSISTANCE PROGRAM**Please complete**

| | | | |
|---|--|-----------------------------------|----------|
| Company Name | | Federal Tax Identification Number | |
| Ordering Address | City | State | Zip Code |
| Remittance Address (if different from ordering address) | City | State | Zip Code |
| Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government | Company Contact Person | | |
| Telephone Number (include area code) | Fax Number (include area code) | | |
| Company's Internet Web Address | Email Address | | |
| Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered) | Days Required for Delivery After Receipt of Order (see attached for any required minimums) | | |
| The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u> | | | |
| The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes ____ No _____. If no, enter where produced, etc. _____ | | | |
| Offeror's Authorized Representative's Signature | | Date | |
| Type or Print Name | | Position or Title | |

**STATE OF UTAH
DIVISION OF PURCHASING**

Request for Proposal

Solicitation Number: NO3015

Due Date: 09/17/02

Vendor Name:

AGENCY CONTRACT FOR EMPLOYEE ASSISTANCE PROGRAM, PER THE ATTACHED RFP.

QUESTIONS ON SPECIFICATIONS CALL KAYE BRIGHT AT (801) 529-9429.
QUESTIONS ON PURCHASING PROCESS (NOT RELATED TO SPECIFICATIONS) CALL NANCY ORTON AT (801) 538-3148.
RX: 600 31000000016

REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS

1. **PROPOSAL PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. (c) Unit price will govern, if there is an error in the extension. (d) Delivery of services as proposed is critical and must be adhered to. (e) Incomplete proposals may be rejected. (f) This proposal may not be withdrawn for a period of 60 days from the due date. (g) Where applicable, all proposals must include complete manufacturer's descriptive literature. (h) By signing the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct.

2. **SUBMITTING THE PROPOSAL:** (a) The proposal must be signed in ink, sealed, and if mailed, mailed in a properly-addressed envelope to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061. **The "Solicitation Number" and "Due Date" must appear on the outside of the envelope.** (b) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section 3-209. (c) **Your proposal will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of proposals to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the proposal for consideration and approval by the Division of Purchasing & General Services (DIVISION). Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose will be paid by the state unless specifically included in the proposal and accepted by DIVISION. (e) By signing the proposal the offeror certifies that all of the information provided is accurate and that he/she offers to furnish materials/services for purchase in strict accordance with the requirements of this proposal including all terms and conditions.

3. **BONDS:** The state has the right to require a bid or proposal bond, payment bond and/or a faithful performance bond from the offeror in an amount not to exceed the amount of the contract.

4. **PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for non-disclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the state and may be returned only at the state's option. Proposals submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. **BEST AND FINAL OFFERS:** Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.

6. **SAMPLES:** Samples, brochures, etc., when required, must be furnished free of expense to the state and if not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.

7. **DIVISION APPROVAL:** Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.

8. **AWARD OF CONTRACT:** (a) The contract will be awarded with reasonable promptness, by written notice, to the lowest responsible offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-21. (b) The DIVISION can reject any and all proposals. And it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the state. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the due date. After the due date, a **register** of proposals shall be established. The **register** shall be open to public inspection, but the proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. The proposal(s) of the successful offeror(s) shall be open for public inspection for 90 days after the award of the contract(s). (e) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

9. **ANTI-DISCRIMINATION ACT:** The offeror agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also offeror agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the

product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

12. **GOVERNING LAWS AND REGULATIONS:** All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available on the Internet at www.purchasing.state.ut.us.

(Revision 2/14/2000 - RFP.Instructions)

REQUEST FOR PROPOSAL – BID # NO3015

AGENCY CONTRACT FOR AN EMPLOYEE ASSISTANCE PROGRAM

1. INTENT AND PROCEDURE

- A. **Purpose:** This Request for Proposal (RFP) seeks to receive proposal responses from interested companies, firms, or individuals, with an established program, to address needs and provide employee assistance services for the Utah State Department of Workforce Services (DWS).
- B. **Introduction:** The State of Utah Department of Workforce Services, hereinafter referred to as DWS administers the Family Employment Program (FEP), the Workforce Investment Act (WIA) Programs, Displaced Homemaker Programs, Wagner-Peyser Programs, and other programs formerly administered by Department of Employment Security, Office of Family Support, Office of Job Training, and Office of Child Care. The purpose of DWS is to provide quality, accessible and comprehensive employment-related and supportive services, responsive to the needs of employers, job seekers, and the community.
- C. **General Information:**

DWS recognizes that alcoholism, drug dependency, and mental health problems are serious illnesses that are responsive to treatment and rehabilitation. It is the policy of DWS to provide assistance to employees when these designated circumstances, or other personal situations, affect employee job performance. It is not the intention of DWS to interfere with an employee's private life; however, upon request, or when personal problems affect job performance on a continuing basis, an employee assistance service provider is required.. An employee assistance program can be an effective tool to help employees resolve life and work difficulties before job performance is impacted, and assist troubled employees to retain employment when performance problems are encountered.

To be considered for contract award, respondents to this Request for Proposal must provide documentation as defined in Statement of Work, that defines qualifications and competency to identify underlying causes of impaired job performance which may be due to both on and off-the-job problems. Documentation must be provided that demonstrates, by inclusion, identified success components of competency to establish and administer counseling and treatment plans.

D. **Administrative Guidelines:**

1. **Contact Person:** Questions regarding this Request For Proposal may be addressed to Kaye Bright, Contracts, Utah State Department of Workforce Services at Telephone Number (801-526-9429).
2. **Eligibility:** Proposals may be submitted by any federal, state, county, city agency or private nonprofit or profit organization, or, if appropriate, by an individual.
3. **Funding Source:** Funding is provided through the Utah State Department of Workforce Services.
4. **Time Period:** Performance term is estimated to begin approximately October 1, 2002 and terminate September 30, 2003, with the option of two one-year renewals, at the discretion of DWS.
5. **Submission of Proposals** - Six (6) copies of proposals are to be submitted to State of Utah, Division of Purchasing, Room 3150 State Office Bldg., Capitol Hill, P.O. Box 141061, Salt Lake City, Utah 84111, at a date and time to be scheduled by Utah State Division of Purchasing. Costs incurred in the preparation and submittal of proposal is the responsibility of Offeror and will not be reimbursed. Late Responses will not be considered.

II. **SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR:**

- A. **Statement of Work:** Provide employee assistance services to DWS, on an as-needed basis. The employee assistance service will assist in resolving personal problems that result in impaired job performance, on a continuing basis, or when employee requests assistance with counseling or treatment.
- B. **Location of Clients:** DWS employees are located throughout the State of Utah and total 1,850; approximately 200 employees require employee assistance services in a one-year period.
- C. **Description of Services to be Provided by Licensed Contractor:**
 1. Perform evaluation for employees of DWS, on an as-needed basis to provide behavioral treatment and rehabilitation for diagnosed conditions, using

methodologies described in Response To Request for Proposal.

2. Provide treatment to employees of DWS that will result in successful outcomes for problem resolution involving on-the-job situations and defined personal life issues. Treatment options are to be described in response to Request for Proposal.
3. Provide example of timetable to be followed for treatment options.
4. Provide description of record-keeping procedures and include statement that indicates willingness to provide access to all cost records by designated DWS representative. Respondent must commit to confidentiality in record-keeping and include a statement that employee name, social security number, initials, or other identifying information will not be included on invoices submitted to DWS.
5. Adhere to reporting and monitoring procedures required by DWS to include the following:
 - (a) Provide statement outlining commitment to fair employment and non-discrimination laws, and to client access applicable under the Federal ADA Regulations.
 - (b) Invoices submitted for reimbursement will include number of clients served and types of services provided.
 - (c) Reports submitted on a monthly basis to designated DWS representative with pertinent information relative to services provided. Reports will be submitted with invoices for reimbursement.

FORMAT AND CONTENT REQUIREMENTS FOR RESPONSE TO RFP:

Proposal Outline: To be prepared by the Respondent. The proposal shall consist of two sections, the Transmittal Cover Letter and the Technical Proposal.

Transmittal Cover Letter - must contain the following information:

1. Certified copy of Certificate of Incorporation or other duly issued authorization to do business.
2. Introduction of the Offeror's Company.

3. Legal authority for Offeror to operate in the State of Utah.
4. Name and address of corporate officers or partners.
5. Name of person(s) authorized to represent the Respondent in any negotiations and to sign any resulting contract.
6. Statement that attached Proposal meets all requirements of the RFP.
7. Membership or approval by, standard-setting professional societies.
8. Professional Licensing or Professional Certifications: Curriculum Vitae of the key personnel that will perform or conduct work activity.
9. Compliance to Standards:
 - a. Performance level required by generally accepted industry standards and in accordance with all applicable State and Federal regulations.
 - b. Statement that certifies respondent complies with established requirements.
10. Statement that Respondent agrees to all Standard Terms and Conditions of a Department of Workforce Services Contract and to all applicable legal requirements including required liability insurance and bonding. Attachments are included in the Request for Proposal for review:

ATTACHMENT A - State of Utah Standard Terms and Conditions;

ATTACHMENT B - Department of Workforce Services
Additional Terms and Conditions;

ATTACHMENT C - Department of Workforce Services Code of Conduct;

ATTACHMENT D - Department of Workforce Services Disclosure of
Confidential Information.

B. Technical Response to Request for Proposal - The Technical Response is required to be presented in narrative format and limited to twenty-five (25) pages. Attachments to clarify narrative will not be included in the twenty-five page limitation. The following information is to be included in the Technical Response:

1. A synopsis of program design, method and theoretical orientation that will be used to meet scope of work requirements.
2. Experience of the respondent in providing an employee assistance program must be specifically described. **Please provide three (3) current references and authorization to contact these references.**
3. Documentation of License to perform clinical services described in RFP.
4. Detailed description of services to be provided by respondent's employee(s) including title, credentials, and experience. Please include hiring requirements for designated employees. Budget must detail salaries for full-time and part-

- time employees, including fringe benefits.
5. Description of accounting procedures, including a budget narrative. A fee schedule for services must be provided, outlining fees on a per-use basis. Costs must be in compliance with all applicable Federal and State regulations.
6. Ability of respondent to provide services throughout the State of Utah.

IV. PROPOSAL EVALUATION AND AWARD OF CONTRACT The evaluation will be done by an evaluation review committee comprised of professional employees of the Utah State Department of Workforce Services. Evaluations will be based on the following proposal evaluation criteria, as weighted:

| <u>Weight</u> | <u>Criteria</u> |
|---------------|--|
| 20% | Documentation and completeness of response, which shall include delivery of service, how will it be implemented, and scope of work to be implemented. |
| 25% | Soundness of Approach - experience to include previous programs, documentation of ability to perform work (<u>References</u>). |
| 25% | Description of services and staff available to perform services. |
| <u>30%</u> | Cost |
| 100% | Total |

Award of Contract - Award of the contract will be made in accordance with the State of Utah Request for Proposal Instructions and General Provisions.

If only one proposal is received in response to this RFP, the Department of Workforce Services may make a recommendation to the Purchasing Agent either to make an award or to resolicit for the purpose of obtaining additional proposals.

Discussions may be held with Offerors submitting potentially acceptable proposals, and may include oral presentations. Factors not specified in the proposal shall not be considered in determining the award and shall not be negotiated to be included in the contract.

The successful proposal will be open to public inspection for a period of 90 days after the award of the contract. The entire proposal will be open unless Offeror requests in writing that

trade secrets/proprietary data be protected. This request must accompany the proposal.

The Department of Workforce Services reserves the right to reject any and all proposals or withdraw this offer at any time. Proposals will be evaluated based on the stated evaluation criteria.

ATTACHMENT A - STANDARD TERMS AND CONDITIONS

AUTHORITY: Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.

CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE: The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake Co.

RECORDS ADMINISTRATION: The CONTRACTOR shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the CONTRACTOR for costs authorized by this contract. These records shall be retained by the CONTRACTOR for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later.

AUDIT OF RECORDS: The CONTRACTOR agrees to allow STATE and Federal auditors, and STATE Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

CONFLICT OF INTEREST: CONTRACTOR represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.

CONTRACTOR, AN INDEPENDENT CONTRACTOR: The CONTRACTOR shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the STATE to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the STATE, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the CONTRACTOR by the STATE. The CONTRACTOR shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the STATE for these contract services. Persons employed by the STATE and acting under the direction of the STATE shall not be deemed to be employees or agents of the CONTRACTOR.

INDEMNITY CLAUSE: The CONTRACTOR agrees to indemnify, save harmless, and release the STATE OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the CONTRACTOR'S officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.

EQUAL OPPORTUNITY CLAUSE: The CONTRACTOR agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the CONTRACTOR agrees to abide by Utah's Executive Order, dated June 30, 1989, which prohibits sexual harassment in the work place.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

RENEGOTIATION OR MODIFICATIONS: This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the parties hereto, and attached to the original signed copy of the contract.

DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

TERMINATION: Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

SALES TAX EXEMPTION: The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

(Revision date: January 5, 2000)

ATTACHMENT B - ADDITIONAL DEPARTMENT OF WORKFORCE SERVICES
STANDARD TERMS AND CONDITIONS

1. **CONFLICT OF INTEREST:** The CONTRACTOR certifies, through the execution of the contract, that no person in its or the DEPARTMENT's employ, directly or through subcontract, will receive any private financial interest, direct or indirect, in the contract. The CONTRACTOR will not hire or subcontract with any person having such conflicting interest.
2. **INDEPENDENT CONTRACTOR:** CONTRACTOR acknowledges by signing this contract that no Social Security, Federal, or State taxes will be withheld from payments under this Contract. However, payments under this contract may be taxable and an information return (IRS Form 1099) showing total contract payments made during the year will be sent to all contractors and to the Internal Revenue Services.
3. **INDEMNITY CLAUSE:** The CONTRACTOR agrees to provide and to maintain during the performance of the contract, at its sole expense, a policy of liability insurance naming the CONTRACTOR and the State of Utah as insured parties under the policy. Such insurance shall be amended to indicate that it is the primary coverage and not a contributing coverage for the DEPARTMENT. The limits of the policy shall be no less than \$500,000.00 for each occurrence and \$1,000,000.00 aggregate.
4. **RENOMINATION OR MODIFICATIONS:** No claim for services furnished by the CONTRACTOR not specifically authorized by this Contract will be allowed by the DEPARTMENT.
5. **ALLOWABLE COSTS AND PAYMENTS:** Payments to the CONTRACTOR shall be made by the DEPARTMENT after receipt of a monthly invoice submitted by the CONTRACTOR.
6. **REDUCTION OF FUNDS:** (*N/A to Open-Ended Contracts*): The maximum amount authorized by this contract shall be reduced or contract terminated if required by Federal/State law, regulation, or action or there is significant under utilization of funds, provided the CONTRACTOR shall be reimbursed for all services performed in accordance with this contract prior to date of reduction or termination. If funds are reduced, there will be a comparable reduction in amount of services to be given by the CONTRACTOR. The DEPARTMENT will give the CONTRACTOR thirty (30) days notice of reduction.
7. **CITING DEPARTMENT IN ADVERTISING:** The CONTRACTOR agrees to give credit to the Department of Workforce Services for funding in all written and verbal advertising or discussion of this program such as brochures, flyers, informational materials, talk shows, etc. All formal advertising or public information programs will be coordinated with Public Information Officer for the Department.
8. **DRUG-FREE WORKPLACE:** The CONTRACTOR understands that the Department provides a drug-free workplace in accordance with all federal and state laws and regulations. The CONTRACTOR agrees to abide by the Department's drug-free workplace policies while on Department premises.
9. **TERMINATION (FUND-OUT):** The CONTRACTOR acknowledges that DEPARTMENT cannot contract for the payment of funds not yet provided by the Federal Government or appropriated by the Utah State Legislature and the Department cannot guarantee funding under this contract since it may be altered by an act of the Federal Government or the Utah State Legislature occurring before the expiration of this contract. Therefore, in the event that Department fails to receive appropriations then the Department may, by giving at least 60 days advance written notice, terminate this contract. DEPARTMENT will reimburse CONTRACTOR for services performed up through the date of cancellation.
10. **CONTRACTOR ASSIGNMENT:** Notwithstanding the DEPARTMENT's right to assign the rights or duties hereunder, the CONTRACTOR agrees and understands that this contract is based on the reputation of the CONTRACTOR, and this contract may not be assigned by the CONTRACTOR without the written consent of the DEPARTMENT. Any attempted assignment by the CONTRACTOR without the DEPARTMENT'S written consent shall be wholly void.
11. **OVERPAYMENT/AUDIT EXCEPTIONS/DISALLOWANCES:** The CONTRACTOR agrees that if during or

subsequent to the contract CPA audit or DEPARTMENT OF WORKFORCE SERVICES Internal Review & Audit determines that payments were incorrectly reported or paid, the DEPARTMENT may amend the contract and adjust the payments. In contracts which include a budget, CONTRACTOR expenditures to be eligible for reimbursement must be adequately documented. Any overpayments determined by audit and for which payment has been made to the contractor, will upon written request be immediately refunded to the DEPARTMENT by the CONTRACTOR. The CONTRACTOR further agrees that the DEPARTMENT shall have the right to withhold any or all subsequent payments under this or other contracts with the CONTRACTOR until recoupment of overpayment is made.

12. **SERVICE CODE COST SUMMARY:** When requested by the DEPARTMENT, the CONTRACTOR shall submit to the DEPARTMENT actual cost expenditures under this contract and specific service code. If selected for review, the DEPARTMENT will request cost data as early as ninety-one (91) days after completion of the prior contract period. Reported costs shall be in accordance with the DEPARTMENT Cost Principles. Service Code Cost Summaries submitted are subject to review by DEPARTMENT audit. Therefore, Cost Summaries should agree in total (and in detail where possible) to any other financial information submitted to the DEPARTMENT. Such financial information would include audit reports, financial statements, etc. Cost Summaries which are found to disagree with other financial information submitted to the DEPARTMENT may be subject to further investigation.
13. **LICENSING AND STANDARD COMPLIANCE:** The CONTRACTOR currently meets all applicable licensing or other standards required by Federal and State laws or regulations and ordinances of the City/County in which services and/or care is provided and will continue to comply with such licensing or other applicable standards and ordinances for duration of this contract period. Failure to secure or maintain a license shall support a basis for cancellation of this contract.
14. **GRIEVANCE PROCEDURE:** The CONTRACTOR agrees to establish a system through which recipients of the purchased services may present grievances about the operation of the program as it pertains to and affects said recipient. The CONTRACTOR will advise recipients of their right to present grievances concerning denial or exclusion from or operation of the program, and to a determination by the Department of Workforce Services in these instances. The CONTRACTOR will advise applicants in writing of rights and procedures to appeal. In the event of a grievance, the contractor will notify the Department of the grievance and its resolution. If no resolution is reached with the contractor, the grievance will be forwarded to the Department for processing through the Department's Administrative Process.
15. **IMPOSITION OF FEES:** The CONTRACTOR will not impose any fees upon clients given services under this contract except as authorized by the DEPARTMENT.
16. **PROTECTION AND USE OF CLIENT RECORDS:** The use or disclosure by any party of any information concerning a client for any purpose not directly connected with the administration of the DEPARTMENT's or the CONTRACTOR's responsibilities with respect to services purchased under this agreement is prohibited except on written consent of the client, his attorney, or his responsible parent or guardian. The Contractor will be required to sign the Confidential Information Certification, Attachment E
17. **CONSULTATION/TECHNICAL ASSISTANCE:** The DEPARTMENT will supply appropriate consultation/technical assistance as indicated/requested by the CONTRACTOR to assure satisfactory performance in providing the contracted services.
18. **CODE OF CONDUCT:** The CONTRACTOR agrees to follow and enforce the Department of Workforce Services Code of Conduct, Utah Administrative Code, R982-601-101 et seq. The CONTRACTOR assures that each employee or volunteer receives a copy of Code of Conduct. A signed statement to this effect must be in employee's/volunteer's file. The CONTRACTOR agrees to prominently display a poster regarding Code of Conduct provided by the DEPARTMENT.
19. **THIRD-PARTY REIMBURSEMENT AND PROGRAM INCOME: OTHER CONTRACTS:** The CONTRACTOR is required to pursue reimbursement from all other sources of funding available for services performed under this contract. Other sources of funding include, but are not limited to third-party reimbursements and program income.

In no instance shall any combination of other sources of funding and billings to DEPARTMENT OF WORKFORCE SERVICES be greater than "necessary and reasonable costs to perform the services" as supported by audited financial records. Collections over and above audited costs shall be refunded to DEPARTMENT OF WORKFORCE SERVICES .

20. **BILLINGS:** Billings and claims for services must be received within twenty (20) days after the last date of service for the period billed including the final billing. Any billing received after twenty (20) days of contract termination may result in a delay or be denied.
21. **FINANCIAL/COST ACCOUNTING SYSTEM:** The CONTRACTOR agrees to maintain a financial and cost accounting system in accordance with generally accepted accounting principles. At a minimum, the CONTRACTOR's accounting system shall provide for a General Ledger, and cost accounting records adequate to assure that costs incurred under this contract are reasonable, allocable to contract objectives, and separate from costs associated with other business activities of the CONTRACTOR. The CONTRACTOR further agrees that all program expenditures and revenues shall be supported by reasonable documentation (vouchers, invoices, receipts, etc.) which shall be stored and filed in a systematic and consistent manner. The CONTRACTOR further agrees to retain and make available to independent auditors, State and Federal auditors, and program and contract reviewers all accounting records and supporting documentation for a minimum of four (4) years after the expiration of this contract. The CONTRACTOR further agrees that, to the extent it is unable to reasonably document the disposition of monies paid under this contract, it is subject to an assessment for overpayment.
22. **CHANGES IN BUDGET (*Cost Reimbursement Contracts Only*):** The budget attached hereto shall be the basis for payment. The CONTRACTOR may not make any adjustment in budgeted funds from Category III, "Program Expenses" to either Category I, "Administration" or Category II, "Capital Expenditures" or between Categories I and II, without prior written approval by the DEPARTMENT. Expenditures in excess of those budgeted in either Categories I or II may be considered questioned costs. Resolution of such questioned costs will normally result in a request that such excesses be refunded to the DEPARTMENT. The CONTRACTOR may, however, shift between either Categories I or II to Category III without prior approval. Expenditures in excess of those budgeted in Category III will not normally result in questioned costs unless restrictions have been placed on subcategories within this major category. When the contract restricts expenditures within defined subcategories, any unapproved excess will be considered a questioned cost.
23. **NON-FEDERAL MATCH:** For those contracts requiring a non-federal match said match shall be in accordance with provisions of Title 45 CFR, Part 74, Sub-part C. Other funding sources may require different non-federal match amounts will be indicated within the Budget.
24. **ADMINISTRATIVE EXPENDITURES:** Total administrative expenditures (Category I) may not exceed twenty-five percent of total program expenditures without prior written approval from DEPARTMENT OF WORKFORCE SERVICES , Executive Director.
25. **CONTRACT RENEWAL:** The CONTRACTOR agrees, for any contract issued as a result of an RFP/bid the DEPARTMENT shall unilaterally have the right to initiate renewal of such a contract, in accordance with the provisions of the RFP/bid at a level of funding to be decided at the time of renewal.
26. **CONTRACTOR RELATIONSHIP:** The relationship of the DEPARTMENT and the CONTRACTOR hereunder shall be that of an independent contractor. Under no circumstances shall an employee agent or representative of either party be represented as, or be deemed to be, an employee, agent or representative of the other party for any purpose whatsoever.
27. **WARRANTIES: CONTRACTOR** warrants that all services shall be performed in a professional and workmanlike manner consistent with best industry practice; and in accordance with the Work Statement. CONTRACTOR agrees to abide by all applicable laws, regulations, and industry standards when performing services for the DEPARTMENT.

28. **TERMINATION UPON DEFAULT:** In the event this contract is terminated as a result of a default by the CONTRACTOR, the DEPARTMENT may procure or otherwise obtain, upon such terms and conditions as the DEPARTMENT deems appropriate, services similar to those terminated, and CONTRACTOR shall be liable to the DEPARTMENT for any damages arising there from, including attorneys' fees and excess costs incurred by the DEPARTMENT in obtaining similar services.
29. **GOVERNMENT RECORDS ACCESS MANAGEMENT ACT (GRAMA):** The Contractor should be aware that all documents produced from this contract will be subject to the State's Access to Public Records policy.
30. **CONTRACTOR'S RESPONSIBILITIES:** The Department will enter into contractual contract with the CONTRACTOR only. The CONTRACTOR shall be responsible for all services as required by the RFP/bid.
31. **HUMAN SUBJECTS RESEARCH:** The CONTRACTOR shall not conduct research involving employees of the DEPARTMENT or individuals receiving services (whether direct or contracted) from the DEPARTMENT.
32. **METHOD AND SOURCE OF CONTRACTOR PAYMENT:** The DEPARTMENT agrees to reimburse the CONTRACTOR in accordance with the attached budget. Warrant drawn against the State of Utah, will be made upon receipt of itemized billing for authorized services provided and supported by information contained on reimbursement forms supplied by DEPARTMENT.
33. **PAYMENT WITHHOLDING:** The CONTRACTOR agrees that the reporting and record keeping requirements specified in this contract are a material element of performance and that if, in the opinion of the DEPARTMENT, the CONTRACTOR's record keeping practices and/or reporting to the DEPARTMENT are not conducted in a timely and satisfactory manner, the DEPARTMENT may withhold part or all payments under this or any other contract until such deficiencies have been remedied. In the event of the payment(s) being withheld, the DEPARTMENT agrees to notify the CONTRACTOR of the deficiencies that must be corrected in order to bring about the release of withheld payment.
34. **FINANCIAL REPORTING:** When **classified as *Service Provider*** (not subrecipient), CONTRACTORS shall provide an independent audit of their entity in accordance with Government Auditing Standards (GAS Yellow Book). CONTRACTORS shall also provide financial statements (a balance sheet, income statement, statement of cash flows, statement of functional expense, and notes to the financial statements) prepared in accordance with Generally Accepted Accounting Principles (GAAP).

When **classified as a private non profit or profit entity**, CONTRACTORS shall submit a copy of its audit report to the DEPARTMENT within one year of the close of the entity's fiscal year.

An entity filling only financial statements shall submit the financial statements within five (5) months of the close of the entity's fiscal year. If this entity chooses to submit an audit report instead of the financial statements, DEPARTMENT OF WORKFORCE SERVICES internal audit must be notified of this decision prior to the end of the five month reporting deadline. If more time is needed, prior approval may be obtained from DEPARTMENT OF WORKFORCE SERVICES internal audit.

Audit reports and financial statements should be sent to the DEPARTMENT OF WORKFORCE SERVICES /Budget and Audit, P.O. Box 45249 Salt Lake City, Utah 84145-0249. All CONTRACTORS are subject to periodic fiscal reviews by DEPARTMENT OF WORKFORCE SERVICES .

35. **MONITORING:** The DEPARTMENT will monitor the service given by the CONTRACTOR for each eligible client and the results obtained using this contract and the attached goals and service objectives and methods as criteria.
36. **DEPARTMENT COST PRINCIPLES:** The CONTRACTOR agrees to abide by Federal and Department Cost Principles as applicable to contract.
37. **NOTIFICATION OF THE INTERNAL REVENUE SERVICE:** It is Department of Workforce Services' policy to notify the Internal Revenue Service of any violations of IRS regulations uncovered as a result of its dealings with providers.

38. RELATED PARTIES: The CONTRACTOR shall not make payments to related parties in any category of Administration, Capital Expenditures, or Program Expenses without the prior written consent of the DEPARTMENT. Payments to related parties may include, but are not limited to: salaries, wages, compensation under employment or service contracts, or payments under purchase, lease, or rental contracts. Payments made by the CONTRACTOR to related parties without such prior written consent may be disallowed and may result in an overpayment assessment. For the purpose of defining payments to related parties under a contract;

a. The CONTRACTOR shall be defined to include all owners, partners, directors, officers of the CONTRACTOR or others with authority to establish policies and make decisions for the CONTRACTOR.

b. Persons and/or organizations shall be considered related parties when any of the following conditions exist:

- 1) A person and/or organization with directors, officers, or others with the authority to establish policies and to make decisions for the organization who is/are related to CONTRACTOR through blood or marriage, as defined by U.C.A., Section 52-3-1(1)(d) as father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in law, or daughter-in-law.
- 2) An organization has in common with the CONTRACTOR either: a) owners or partners who directly or indirectly own ten percent (10%) or more of the voting interest of the organization; and/or b) directors, officers or others with authority to establish policies and make decisions for the organization.

The CONTRACTOR is obligated to immediately call any contemplated or actual related party payment to the attention of the DEPARTMENT. Upon notification of related party payment, the DEPARTMENT may, at its discretion, require that the CONTRACTOR undertake competitive bidding for the goods or services, require satisfactory cost justification prior to payment, or take other steps that may be necessary to assure that the goods or services provided afford the DEPARTMENT a satisfactory level of quality and cost. Any related party payments contemplated under this contract are specified as follows: (if none, please so state).

39. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA: If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract was increased by any significant sum because the CONTRACTOR furnished cost or pricing data (e.g., service code cost summaries, salary schedules, reports of prior period costs, etc.) which was not accurate, complete, and current, the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction, and amounts overpaid shall be subjected to overpayment assessments. Any action the DEPARTMENT may take in reference to such price reduction shall be independent of, and not be prejudicial to, the DEPARTMENT's right to terminate this contract.

40. PAYMENT RATES (Does Not Apply to Contracts With DEPARTMENT OF WORKFORCE SERVICES Set Rates): Initial payment rates for negotiated contracts may be calculated based on actual expenditures for prior period, available budget and changes in the type or quality of service. The rates may be adjusted up or down during the contract term in accordance with prior paid actual costs or a review of current costs verified by audit or fiscal review. Such a rate adjustment may be retroactive to the beginning of the contract. Rates for contracts awarded as a result of the competitive bidding process will not be changed during the contract term.

41. EQUAL OPPORTUNITY CLAUSE: Contractor agrees to abide by the provisions set forth in the following statutes and regulations:

- (a) Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;

- (b) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color, and national origin;
- (c) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- (d) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- (e) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in education programs.

[Rev. 4/01]

ATTACHMENT AC@- CODE OF CONDUCT

The Contractor agrees that it shall adhere to the following Code of Conduct when providing services and shall require all others authorized through or engaged by the **Contractor** to perform services to follow the same Code of Conduct. The Provider Code of Conduct is in addition to all other contract requirements, policies, rules and regulations governing delivery of services to clients. The purpose of the code is to protect vulnerable clients from abuse, neglect, maltreatment and exploitation. The Code of Conduct clarifies the expectation of conduct for providers of contracted, licensed and certified programs and their employees, which includes administrative staff, non direct care staff, direct care staff, support services staff and any others when interacting with clients. Nothing in this Code shall be interpreted to mean that clients should not be held accountable for misbehavior or inappropriate behavior on their part, or that providers are restricted from instituting suitable consequences for such behavior. As used in this clause "**Contractor**" shall include, the **Contractor**, its employees, officers, agents, representative or those contracted through the **Contractor** to perform services authorized by the contract.

The **Contractor**, its agents or representatives authorized through it shall not abuse, sexually abuse or sexually exploit, neglect, exploit or maltreat; any client. Furthermore, no person shall cause physical injury to any client. All injury to clients (explained or unexplained) shall be documented in writing and immediately reported to supervisory personnel.

The **Contractor** shall not by acting, failing to act, encouragement to engage in, or failure to deter from will cause any client to be subject to abuse, sexual abuse or sexual exploitation, neglect, exploitation, or maltreatment. The **Contractor** shall not engage any client as an observer or participant in sexual acts. The **Contractor** shall not make improper use of a client or their resources for profit or advantage.

Contractor understands and acknowledges that failure to comply with this Code of Conduct may result in corrective action, probation, suspension, and/or termination of contract, license or certification.

Clients protected by this clause shall include any person under the age of 18 years; and any person 18 years of age or older who is impaired because of mental illness, mental deficiency, physical illness or disability, use of drugs, intoxication, or other cause, to the extent that he is unable to care for his own personal safety, health or medical care; and is a participant in, or a recipient of a program or service contracted with, or licensed or certified by the Department of Workforce Services.

Abuse shall include the following, but is not limited to:

1. Harm or threatened harm, meaning damage or threatened damage to the physical or emotional health and welfare of a client.
2. Unlawful confinement.
3. Deprivation of life-sustaining treatment.
4. Physical injury including, but not limited to, any contusion of the skin, laceration, malnutrition, burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury causing bleeding, or any physical condition which imperils a client's health or welfare.
5. Any type of physical hitting or corporal punishment inflicted in any manner upon the body.

Sexual abuse and sexual exploitation will include, but not be limited to:

1. Engaging in sexual intercourse with any client.
2. Touching the anus or any part of the genitals or otherwise taking indecent liberties with a client, or causing an individual to take indecent liberties with a client, with the intent to arouse or gratify the sexual desire of any person.
3. Employing, using, persuading, inducing, enticing, or coercing a client to pose in the nude.
4. Employing, using, persuading, inducing, enticing or coercing a client to engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct. This includes displaying, distributing, possessing for the purpose of distribution, or selling material depicting nudity, or engaging in sexual or simulated sexual conduct with a client.
5. Committing or attempting to commit acts of sodomy or molestation with a client.
6. This definition is not to include therapeutic processes used in the treatment of sexual deviancy or dysfunction which have been outlined in the clients treatment plan and is in accordance with written agency policy.

Neglect may include but is not limited to:

1. Denial of sufficient nutrition.
2. Denial of sufficient sleep.
3. Denial of sufficient clothing, or bedding.
4. Failure to provide adequate supervision; including impairment of employee resulting in inadequate supervision. Impairment of an employee may include but is not limited to use of alcohol and drugs, illness, sleeping.
5. Failure to arrange for medical care and/or medical treatment as prescribed or instructed by a physician when not contraindicated by agency after consultation with agency physician.
6. Denial of sufficient shelter, except in accordance with the written agency policy.

Exploitation will include, but is not limited to:

1. Utilizing the labor of a client without giving just or equivalent return except as part of a written agency policy which is in accordance with reasonable therapeutic interventions and goals.
2. Using property belonging to clients.
3. Acceptance of gifts as a condition of receipt of program services.

Maltreatment will include, but is not limited to:

1. Physical exercises, such as running laps or performing pushups, except in accordance with an individual's service plan and written agency policy.
2. Chemical, mechanical or physical restraints except when authorized by individual's service plan and administered by appropriate personnel or when threat of injury to the client or other person exists.
3. Assignment of unduly physically strenuous or harsh work.
4. Requiring or forcing the individual to take an uncomfortable position, such as squatting or bending, or requiring or forcing the individual to repeat physical movements when used solely as a means of punishment.
5. Group punishments for misbehavior of individuals except in accordance with the written agency policy.
6. Verbal abuse by agency personnel: engaging in language whose intent or result is demeaning to the client except in accordance with written agency policy which is in accordance with reasonable therapeutic interventions and goals.
7. Denial of any essential program service solely for disciplinary purposes except in accordance with written agency policy.
8. Denial of visiting or communication privileges with family or significant others solely for disciplinary purposes except in accordance with written agency policy.
9. Requiring the individual to remain silent for long periods of time solely for the purpose of punishment.
10. Extensive withholding of emotional response or stimulation.
11. Exclusion of a client from entry to the residence except in accordance with the written agency policy.

Contractor agrees to document and report abuse, sexual abuse and sexual exploitation, neglect, maltreatment and exploitation as outlined in this Code and cooperate fully in any resulting investigation. Reports may be made by contacting the local Regional Office within 24 hours on the first available work day. All injury to clients (explained or unexplained) shall be documented in writing and immediately reported to the Department of Workforce Services.

[Rev.3/99]

DISCLOSURE OF INFORMATION CERTIFICATION

The **Contractor** will comply with the following measures to protect the privacy of the information released under this agreement against unauthorized access or disclosure:

1. The information shall be used only to the extent necessary to assist in the purposes identified within this contract and shall not be re-disclosed for any purpose not specifically authorized in this contract.
2. The information shall be stored in a place physically secure from access by unauthorized persons.
3. Information in electronic format, such as magnetic tapes or discs shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or any other means.
4. Precautions shall be taken to ensure that only authorized personnel are given access to on-line files.
5. The **Contractor** shall instruct all authorized personnel regarding the private nature of the information and that State and Federal law provides sanctions for the unauthorized disclosure.
6. The **Contractor** shall permit the **Utah Department of Workforce Services** or any other authorized State or Federal Agency to make on-site inspections to insure that the requirements of this contract and all applicable State and Federal laws, statutes and regulations are being met.